PART IV

SECTION—1 B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

GOVERNMENT OF KARNATAKA

DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS

NOTIFICATION

No. LAW 19 LCA 1975, Bangalore, dated 9th April 1975

The Governor of Karnataka is pleased to order that the Constitution (Thirty-fifth Amendment) Act, 1974 which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated 22nd February 1975 be republished in the *Karnataka Gazette* for general information.

M. BALAJI RAO,

I/c. Under Secretary to Government,
Department of Law and Parliamentary Affairs.

Assented to on 22nd February 1975, Act No. of 1975

THE CONSTITUTION (THIRTY-FIFTH AMENDMENT).

ACT, 1974

AN

ACT

further to amend the Constitution of India to give effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. *Short title, and commencement.*—(1) This Act may be called the Constitution (Thirty-fifth Amendment) Act, 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new article* 2A.—After article 2 of the Constitution, the following article shall be inserted, namely:—

"2A. *Sikkim to be associated with the Union.*—Sikkim, which comprises the territories specified in the Tenth Schedule, shall be associated with the Union on the terms and conditions set out in that Schedule.".

3. *Amendment of article* 80.—In article 80 of the Constitution, in clause (1), for the words "The Council of States", the words and figure "Subject to the provisions of paragraph 4 of the Tenth Schedule, the Council of States" shall be substituted.

4. *Amendment of article* 81.—In article 81 of the Constitution, in clause (1), for the words and figures "Subject to the provisions of article 331", the words and figures "Subject to the provisions of article 331 and paragraph 4 of the Tenth Schedule" shall be substituted.

5. *Addition of Tenth Schedule.*—After the ninth Schedule to the Constitution, the following Schedule shall be added, namely :—

TENTH SCHEDULE

[Articles 2A, 80(1) and 81(1)]

Part—A

Territories of Sikkim

1. *Sikkim.*—Sikkim comprises the following territories, namely:—

The territories which, immediately before the coming into force of the Government of Sikkim Act, 1974, were comprised in Sikkim.

Part—B

Terms and conditions of association of Sikkim with the Union.

2. *Responsibilities of the Government of India.*—(1) The Government of India—

(*a*) shall be solely responsible for the defence and territorial integrity of Sikkim and for the conduct and regulation of the external relations of Sikkim, whether political economic or financial ;

(*b*) shall have the exclusive right of constructing maintaining and regulating the use of railways, aerodromes, landing grounds and air navigation facilities, posts, telegraphs, telephones and wireless installations in Sikkim ;

(*c*) shall be responsible for securing the economic and social development of Sikkim and for ensuring good administration and for the maintenance of communal harmony therein ;

(*d*) shall be responsible for providing facilities for students from Sikkim in institutions for higher learning in India and for the employment of people from Sikkim in the public services of India (including the All India Services), at par with those available to citizens of India ;

(*e*) shall be responsible for providing facilities for the participation and representation of the people of Sikkim in the political institutions of India.

(2) The provisions contained in this paragraph shall not be enforceable by any court.

3. *Exercise of certain powers by the President.*—The President may, by general or special order, provide—

(*a*) for the inclusion of the planned development of Sikkim within the ambit of the planning authority of India while that authority is preparing plan for the economic and social development of India, and for appropriately associating officials from Sikkim in such work;

(*b*) for the exercise of all or any of the powers vested or sought to be vested in the Government of India in or in relation to Sikkim under the Government of Sikkim Act, 1974.

4. *Representation in Parliament.*—Notwithstanding anything in this Constitution—

(*a*) there shall be allotted to Sikkim one seat in the Council of States and one seat in the House of the people;

(*b*) the representative of Sikkim in the Council of States shall be elected by the members of the Sikkim Assembly ;

(*c*) the representative of Sikkim in the House of the People shall be chosen by direct election, and for this purpose, the whole of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim :

Provided that the representative of Sikkim in the House of the People in existence at the commencement of the Constitution (Thirty-fifth Amendment) Act, 1974, shall be elected by the members of the Sikkim Assembly ;

(*d*) there shall be one general electoral roll for the parliamentary constituency for Sikkim and every person whose name is for the time being entered in the electoral roll of any constituency under the Government of Sikkim Act, 1974, shall be entitled to be registered in the general electoral roll for the parliamentary constituency for Sikkim;

(*e*) a person shall not be qualified to be the representative of Sikkim in the Council of States or the House of the People unless he is also qualified to be chosen to fill a seat in the Sikkim Assembly and in the case of any such representative—

(i) clause (*a*) of article 84 shall apply as if the words "is a citizen of India, and" had been omitted therefrom ;

(ii) clause (3) of article 101 shall apply as if sub-clause (*a*) had been omitted therefrom ;

(iii) sub-clause (*d*) of clause (1) of article 102 shall apply as if the words "is not a citizen of India, or" had been omitted therefrom ;

(iv) article 103 shall not apply ;

(*f*) every representative of Sikkim in the Council of States or in the House of the People shall be deemed to be a member of the Council of States or the House of the People, as the case may be, for all the purposes of this

Constitution except as respects the election of the President or the Vice-President :

Provided that in the case of any such representative, clause (2) of article 101 shall apply as if for the words "a House of the Legislature of a State", in both the places where they occur, and for the words "the Legislature of the State", the words "the Sikkim Assembly" had been substituted ;

(*g*) if a representative of Sikkim, being a member of the Council of States or the House of the People, becomes subject to any of the disqualifications for being a member of the Sikkim Assembly or for being the representative of Sikkim in the Council of States or the House of the People, his seat as a member of the Council of States or the House of the People, as the case may be, shall thereupon become vacant ;

(*h*) if any question arises as to whether a representative of Sikkim, being a member of the Council of States or the House of the People, has become subject to any of the disqualifications mentioned in clause (*g*) of this paragraph, the question shall be referred for the decision of the President and his decision shall be final :

Provided that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion ;

(*i*) the superintendence, direction and control of the preparation of the electoral rolls for and the conduct of elections to Parliament under this paragraph of the representatives of Sikkim shall be vested in the Election Commission and the provisions of clauses (2), (3), (4) and (6) of article 324 shall, so far as may be, apply to and in relation to all such elections

(j) Parliament may, subject to the provisions of this paragraph, from time to time by law make provision with respect to all matters relating to, or in connection with, such elections to either House of Parliament ;

(*k*) no such election to either House of Parliament shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by Parliament.

Explanation.—In this paragraph, the expression "the Sikkim Assembly" shall mean the Assembly for Sikkim constituted under the Government of Sikkim Act, 1974.

5. *Schedule not to derogate from agreements, etc.*—The provisions of this Schedule shall be in addition to, and not in derogation of, any other power, jurisdiction, rights and authority which the Government of India has or may have in or in relation to Sikkim under any agreement, grant, usage, sufferance or other lawful arrangement.'.

K. K. SUNDARAM,
Secretary to Government of India.

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